IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2413 OF 2005

Lalbabu Gangaprasad Sahu ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

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Mr. M.P. Mishra, Advocate for Petitioner

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. Rule. By consent, rule made returnable forthwith.

3. The petitioner is seeking quashing of chapter proceedings initiated against him by the respondent No.2 i.e. Special Executive Magistrate, Santacruz Division, Mumbai. The said proceedings are numbered as C.C. No.27 of 2005. The said proceedings have been initiated under Section 110(g) of Cr.P.C.

4. The learned advocate for the petitioner has

submitted that the petitioner is only involved in one case and in this view of the matter, no chapter proceedings could have been initiated against the petitioner. He has placed reliance on the decision of this Court in the case of **Santosh Shinde Vs. J.R. Sangam, Assistant Commissioner of Police & Anr reported in 1995(1) Crimes 571.** In the said decision, this Court has observed that the show cause notice mentions only solitary incident, in such case issuance of show cause notice was not justified. I have perused the said decision, the solitary incident in which the person was involved in the said case was of shouting slogans. The said person was not involved in any other incident, hence, it was in the light of those facts that court came to the conclusion that the show cause notice could not have been issued.

5. It is true that in the present case also in the show cause notice only one incident is reflected. However, the incident is of much more serious and heinous nature than that of shouting slogans. In the present case the petitioner took an advantage of a young girl of four years. The young girl of four years had come to the house of petitioner while playing. The petitioner closed the door and removed her clothes and thereafter he had moved his hands all over the body of the girl and also kissed her. The

girl started crying which attracted the attention of others. People gathered there and caught hold of the petitioner and brought him to the police station. The facts of the present case are such as to show that it would not be appropriate to keep the petitioner at large as it would be dangerous and hazardous to the community. The act of the petitioner would be covered under Section 110(g) of Cr.P.C. even though this is a solitary incident.

6. Moreover, in the case of Santosh Shinde on which reliance is placed, the show cause notice was not under Section 110(g) of Cr.P.C. but it appears that it was under earlier part of Section 110. Section 110(a) to Section 110(f) would be applicable only in a case where the person habitually engages in offences of a particular nature, hence, the observations have been made in the case of Santosh Shinde that the show cause notice mentions only solitary incident and no antecedents have been made out hence, the show cause notice could not have been issued against the petitioner therein.

7. As far as section 110(g) is concerned, it is pertinent to note that the word habitually is missing from Section 110(g), thus it is clear that a notice under Section 110(g) can also be issued in cases wherein the incident is a solitary incident. As long

as the incident falls within the definition of Section 110(g), chapter proceedings can be initiated and bond can be insisted upon in such cases even if the incident is a solitary incident. Thus, this decision would be of no help to the petitioner.

8. Thereafter, the learned advocate for the petitioner relied on the very same decision in the case of Santosh Shinde (supra) to contend that no interim bond could be insisted upon in the present case. As stated earlier, the facts in the case on which reliance has been placed and the facts in the present case are entirely different, hence, the said decision would not be applicable to the facts of the present case. Thus, I find no merit in this submission. Petition is rejected. Rule discharged.

9. It is made clear that in case the respondent No.2 directs the petitioner to furnish surety or interim or final bond he may be granted two days time to furnish the said surety or bond.

10. Writ petition is disposed of.

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